

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

APPENDIX H

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

STEVEN NEWMAN AND CAROL NEWMAN

(b) County of Residence of First Listed Plaintiff BURLINGTON
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

EDWARD SCOTT GOLDIS
FELDMAN SHEPHERD 21ST FLOOR
1845 WALNUT
PHILA PA 19103
215-567-8300
EGOLDIS@FELDMAN-SHEPHERD.COM

DEFENDANTS

SAFEWAY INC. AND COLUARDI'S
FAMILY MARKERS L.P. ALAMEDACounty of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. 215-972-5200
TMCDEVITT@RSM-LAW.COM

Attorneys (If Known)

TRACEY MOEDVITT MAGAN
REILLY SAMCZEK & MOEDVITT
WIDENER BLVD. #410
PHILA PA 19107

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | PTF | DEF | PTF | DEF |
|---|---------------------------------------|---|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. SEC 1332

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23DEMAND \$ 75,000.00
IN EXCESS OFCHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

2/18/14

SIGNATURE OF ATTORNEY OF RECORD

THOMAS MAX

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

APPENDIX I

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORMSTEVEN NEWMAN AIS
CAROL NEWMAN

v.

SAFeway Inc. ET AL

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>02/18/2014</u>	<u>Tracey McDermott Hagom</u>	<u>SAFeway Inc</u>
Date	Attorney-at-law	Attorney for
<u>215 972-5200</u>	<u>215-972-0405</u>	<u>TMCDERMOTT@RSM-LAW.COM</u>
Telephone	FAX Number	E-Mail Address

UNITED STATES DISTRICT COURT

APPENDIX F

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar

Address of Plaintiff: 28 FINCHLEY COURT SOUTHAMPTON NS 08088
 Address of Defendant: 5918 STOWERIDGE MAN ROAD PLEASANTON CA 94588
 Place of Accident, Incident or Transaction: 310 S. MERIDSON RD. KING OF PRUSSIA PA
 (Use Reverse Side For Additional Space,

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
 (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?
 RELATED CASE, IF ANY:

Yes ☒ No ☒

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
 Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
 Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
 Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
 (Please specify) Government Contract

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☒ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
 (Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, _____, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: _____ Attorney-at-Law _____

Attorney I.D.# _____

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: _____ Attorney-at-Law _____

Attorney I.D.# _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSLYVANIA**

STEVEN NEWMAN	:	
AND CAROL NEWMAN, H/W	:	
	:	JURY TRIAL DEMANDED
Plaintiff,	:	
v.	:	
	:	
SAFEWAY, INC. AND	:	
SAFEWAY STORES, INC.	:	
	:	
Defendants	:	

NOTICE OF REMOVAL

The Petitioner, Safeway, Inc. (improperly pled as Safeway Stores, Inc.),
respectfully states to this Court:

1. An action was commenced and is currently pending in the Court of Common Pleas of Philadelphia County, Pennsylvania, No. 130802216, in which the above named Steven Newman and Carol Newman are the Plaintiffs, and Petitioner, Safeway, Inc. (improperly pled as Safeway Stores, Inc.) (hereinafter “Safeway, Inc.”) is named as Defendant.
2. This action was instituted as the result of an incident wherein Plaintiffs asserted claims for negligence. (See Plaintiffs’ Complaint, attached hereto as Exhibit “A” and incorporated herein by reference).
3. By way of information and belief, the damages alleged by the Plaintiffs exceed \$75,000.00, exclusive of interest and costs, by virtue of the extent of the injuries alleged in the Complaint, the claims for past and future medical expenses alleged in the Complaint, and allegations of ongoing and future medical treatment. (See

Exhibit "A"). Specifically, Plaintiff, Steven Newman alleges he was caused to sustain serious personal injuries, including, but not limited to, a torn right rotator cuff requiring surgical repair with grafting and other injuries, all of which will in the future continue to require medical care, treatment and therapy. *Id.*, Paragraph 20. Plaintiff further contends he has incurred substantial expenses for medical care and treatment, and he will continue to incur such expenses for the rest of his life. *Id.*, Paragraph 21. Further, Steven Newman contends he suffered a loss of earnings and earning capacity, and will continue to suffer such loss for the rest of his life. *Id.*, Paragraph 22. Plaintiff contends he suffered a diminution in his ability to enjoy the ordinary pleasures of life, and he will continue to suffer such loss for the rest of his life. *Id.*, Paragraph 23. Plaintiff further contends that he has experienced physical and emotional pain and suffering and will continue to suffer same for the rest of his life. *Id.*, Paragraph 24. Further, Plaintiff, Carol Newman, alleges that she has suffered a loss in the aid, assistance, society, comfort, companionship and consortium of her husband, Plaintiff Steven Newman. *Id.*, Paragraph 26.

4. Based upon information set forth at the Case Management Conference in this matter, Plaintiff contends he continues to experience pain from the injuries alleged and contends current and future treatment for these injuries. Based upon information set forth at the Case Management Conference, Plaintiff further contends that the first surgical procedure to his shoulder was unsuccessful and that a second shoulder surgery in the future is required.

5. In the *ad damnum* clause of the Complaint, Steven Newman demands judgment against defendants “in an amount in excess of the jurisdictional limit for arbitration, together with interest and costs.” In addition, in another *ad damnum* clause of the Complaint, Carol Newman demands judgment against defendants “for an amount in excess of the jurisdictional limit for arbitration, together with interest and costs.”
6. In the interest of judicial economy and the fair adjudication of claims brought before the Court, Petitioner seeks removal to this Court.
7. Upon information and belief, Petitioner states that diversity of citizenship exists between the parties in controversy as follows:
 - a) Plaintiffs, Steven Newman and Carol Newman, are citizens of the State of New Jersey. Plaintiffs are at the present time adult individuals residing at 28 Finchley Court, Southampton, NJ. domiciled in the State of New Jersey.
 - b) The Defendant, Safeway, Inc., is not a citizen of the State of New Jersey and is not a citizen of the Commonwealth of Pennsylvania because it is a corporation which is a citizen of the State of Delaware and the State of California. Specifically, Safeway Inc. is incorporated in Delaware and therefore is a citizen of Delaware. Further, Safeway Inc. has its principal place of business in California and is also a citizen of California.
8. This Court has original jurisdiction over the action between the Plaintiff and Defendant pursuant to the provisions of 28 U.S.C. Sect. 1332 and, as a result, Petitioner may remove this action to this Court pursuant to the provisions of

28 U.S.C. Sect. 1441.

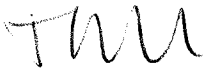
9. This notice is filed with the Court within the time period set for removal set forth in 28 U.S.C. Sect. 1446(b) in that a Stipulation of Dismissal of the non-diverse defendant, Giant Food Stores, LLC, was filed with the Court and served on February 11, 2014 by counsel for Giant Food Stores, LLC by way of e-filing, and the instant Notice of Removal was filed within 30 days of service of same. (See Stipulation of Dismissal dated February 11, 2014, attached hereto as Exhibit “B” and incorporated herein by reference). Specifically, under 28 USCS § 1446 (b)(3), “[e]xcept as provided in subsection (c), if the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.” Defendants were first able to ascertain that the damages alleged by the Plaintiff exceed \$75,000.00, exclusive of interest and costs, by virtue of the extent of the injuries alleged in the Complaint and by the claims for past and future medical expenses as well as a loss of consortium alleged in the Complaint. However, this case did not become removable until February 11, 2014, when the above-referenced Stipulation of Dismissal of the non-diverse defendant, Giant Food Stores, LLC, was filed and served.
10. A written notice of the filing of this Notice of Removal has been given to all parties as required by 28 U.S.C. Sect. 1446(d).

11. A true and correct copy of this Notice of Removal has been filed with the Prothonotary of the Court of Common Pleas of Philadelphia County, Pennsylvania as provided by U.S.C. Sect. 1446(d).

WHEREFORE, Petitioner, Safeway, Inc. respectfully requests that it may effect a removal of this action from the Court of Common Pleas of Philadelphia County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

REILLY, JANICZEK & MCDEVITT, P.C.

By: 
TRACEY MCDEVITT HAGAN
Widener Building
Suite 410
One South Penn Square
Philadelphia, PA 19107
(215) 972-5200
F: (215) 972-0405
Attorney for Petitioner,
Safeway, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**STEVEN NEWMAN
AND CAROL NEWMAN, H/W**

**Plaintiff,
v.**

**SAFEWAY, INC. AND
SAFEWAY STORES, INC.**

Defendants

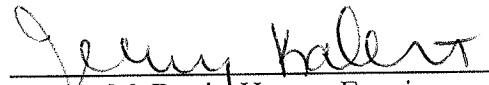
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CERTIFICATE OF SERVICE

I, Tracey McDevitt Hagan, Esquire, attorney for Defendant, Safeway, Inc. hereby certify that a true and correct copy of Defendant's Praecipe to File Notice of Removal, with the Notice of Removal Petition, has been served on counsel for the Respondent, via first class, postage prepaid mail, as follows:

Edward Goldis, Esquire
1845 Walnut Street
21st Floor
Philadelphia PA 19103

Dated: 2/18/14


Tracey McDevitt Hagan, Esquire
Jennifer Axelrod Kallet, Esquire
Attorney for Defendant,
Safeway, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSLYVANIA

STEVEN NEWMAN
AND CAROL NEWMAN, H/W

Plaintiff,
v.

SAFEWAY, INC. AND
SAFEWAY STORES, INC.

Defendants

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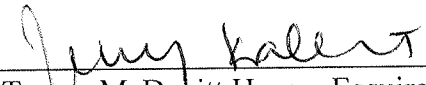
PRAECIPE TO FILE NOTICE OF REMOVAL

TO: Edward Goldis, Esquire
1845 Walnut Street
21st Floor
Philadelphia PA 19103

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. Sect. 1446, Safeway, Inc., Defendant in the above captioned matter, has on February 18, 2014, filed its Notice of Removal, a copy of which is attached hereto, in the office of the Clerk, United States District Court for the Eastern District of Pennsylvania, Room 2609, U.S. Courthouse, 601 Market Street, Philadelphia, 19106.

Respectfully submitted,

REILLY, JANICZEK & MCDEVITT, P.C.

By: 
Tracey McDevitt Hagan, Esquire
Jennifer Axelrod Kallet, Esquire
Attorney for Defendant,
Safeway, Inc.

Date: 2/18/14

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSLYVANIA

STEVEN NEWMAN
AND CAROL NEWMAN, H/W

Plaintiff,
v.

SAFEWAY, INC. AND
SAFEWAY STORES, INC.

Defendants

:
:
:
:
:
:
:
:
:
:
:
:

DISCLOSURE STATEMENT IN ACCORDANCE WITH
FEDERAL RULE 7.1(a)

1. Defendant, Safeway, Inc. is a corporation with its principal place of business in Pleasanton, California.

Please check one box:

X: The nongovernmental corporate party, Safeway, Inc., in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.

☐ The nongovernmental corporate party, _____, in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock:

Respectfully submitted,

REILLY, JANICZEK & MCDEVITT, P.C.

By: Jenny Kallet
Tracey McDevitt Hagan, Esquire
Jennifer Axelrod Kallet, Esquire
Attorney for Defendants,
Genuardi's Family Markets, L.P. and
Safeway, Inc.

Date: 2/18/14

EXHIBIT A

Court of Common Pleas of Philadelphia County
Trial Division
Civil Cover Sheet

For Prothonotary Use Only (Docket Number):
AUGUST 2013 **002216**
E-Filing Number: 1308037237

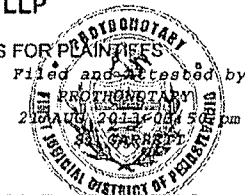
PLAINTIFF'S NAME STEVEN NEWMAN		DEFENDANT'S NAME SAFeway, INC.	
PLAINTIFF'S ADDRESS 28 FINCHLEY COURT SOUTHAMPTON NJ 08088		DEFENDANT'S ADDRESS 5918 STONERIDGE MALL ROAD PLEASANTON CA 94588	
PLAINTIFF'S NAME CAROL NEWMAN		DEFENDANT'S NAME SAFeway STORES, INC.	
PLAINTIFF'S ADDRESS 28 FINCHLEY COURT SOUTHAMPTON PA 08088		DEFENDANT'S ADDRESS 225 S. 15TH STREET PHILADELPHIA PA 19102	
PLAINTIFF'S NAME		DEFENDANT'S NAME GIANT FOOD STORES, LLC	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS 1149 HARRISBURG PIKE CARLISLE PA 17013	
TOTAL NUMBER OF PLAINTIFFS 2	TOTAL NUMBER OF DEFENDANTS 3	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Petition Action <input checked="" type="checkbox"/> Transfer From Other Jurisdictions <input type="checkbox"/> Notice of Appeal	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Non-Jury <input type="checkbox"/> Other: <input type="checkbox"/> Mass Tort <input type="checkbox"/> Savings Action <input type="checkbox"/> Petition <input checked="" type="checkbox"/> Commerce <input checked="" type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> Settlement <input type="checkbox"/> Minors <input type="checkbox"/> W/D/Survival		
CASE TYPE AND CODE 2S - PREMISES LIABILITY, SLIP/FALL			
STATUTORY BASIS FOR CAUSE OF ACTION			
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)		IS CASE SUBJECT TO COORDINATION ORDER? YES NO FILED PRO PROTHY AUG 21 2013 S. GARRETT	
TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>STEVEN NEWMAN , CAROL NEWMAN</u> Papers may be served at the address set forth below.			
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY EDWARD SCOTT. GOLDIS		ADDRESS 1845 WALNUT STREET 25TH FLOOR PHILADELPHIA PA 19103	
PHONE NUMBER (215) 567-8300	FAX NUMBER (215) 567-8333		
SUPREME COURT IDENTIFICATION NO. 88233		E-MAIL ADDRESS egoldis@feldmanshepherd.com	
SIGNATURE OF FILING ATTORNEY OR PARTY EDWARD GOLDIS		DATE SUBMITTED Wednesday, August 21, 2013, 03:50 pm	



FELDMAN, SHEPHERD, WOHLGELERNTER, TANNER, WEINSTOCK & DODIG, LLP

BY: ALAN M. FELDMAN/DANIEL J. MANN/EDWARD S. GOLDIS
IDENTIFICATION NO.: 23210/77639/88233
21st FLOOR
1845 WALNUT STREET
PHILADELPHIA, PA 19103
(215) 567-8300

ATTORNEYS FOR PLAINTIFFS



STEVEN NEWMAN and CAROL NEWMAN, h/w
28 Finchley Court
Southampton, NJ 08088

Plaintiffs

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

AUGUST TERM, 2013

v.

No.

SAFEWAY, INC.
5918 Stoneridge Mall Road
Pleasanton, CA 94588
and
SAFEWAY STORES, INC.
225 S. 15th Street
Philadelphia, PA 19102
and
GIANT FOOD STORES, LLC
1149 Harrisburg Pike
Carlisle, PA 17013

Defendants

JURY TRIAL DEMANDED

CIVIL ACTION COMPLAINT

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PHILADELPHIA BAR ASSOCIATION
LAWYER REFERRAL AND INFORMATION SERVICE
One Reading Center
Philadelphia, Pennsylvania 19107
Telephone: 215-238-6333 TTY: 215-451-8197

AVISO

Le han demandado a usted en la corte. Si Ud. quiere defenderse de las demandas expuestas en las páginas siguientes, tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparecencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requerir que cumpla con todas las provisiones de esta demanda. Ud. puede perder dinero o sus propiedades u otros derechos importantes para Ud.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ABAJO PARA AVERIGUAR DONDE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACIÓN DE LICENCIADOS DE FILADELFA
SERVICIO DE REFERENCIA E INFORMACIÓN LEGAL

One Reading Center
Filadelfia, Pennsylvania 19107
Teléfono: 215-238-6333 TTY: 215-451-8197

Case ID: 130802216

FELDMAN, SHEPHERD, WOHLGELERNTER, TANNER, WEINSTOCK & DODIG, LLP

BY: ALAN M. FELDMAN/DANIEL J. MANN/EDWARD S. GOLDIS

IDENTIFICATION NO.: 23210/77639/88233

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(215) 567-8300

ATTORNEYS FOR PLAINTIFFS

STEVEN NEWMAN and CAROL NEWMAN, h/w
28 Finchley Court
Southampton, NJ 08088

Plaintiffs

v.

SAFEWAY, INC.
5918 Stoneridge Mall Road
Pleasanton, CA 94588

and

SAFEWAY STORES, INC.
225 S. 15th Street
Philadelphia, PA 19102

and

GIANT FOOD STORES, LLC
1149 Harrisburg Pike
Carlisle, PA 17013

Defendants

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

AUGUST TERM, 2013

No.

JURY TRIAL DEMANDED

COMPLAINT-CIVIL ACTION

I. PARTIES

1. Plaintiffs Steven Newman and Carol Newman, husband and wife, are citizens and residents of the State of New Jersey, residing therein at 28 Finchley Court, Southampton, NJ 08088.

2. Defendant Safeway, Inc. is a business entity with its corporate headquarters located at 5918 Stoneridge Mall Road, Pleasanton, CA 94588.

3. Defendant Safeway Stores, Inc. is a business entity with a location for business at 225 S. 15th Street, Philadelphia, PA 19102.

4. Defendant Safeway, Inc. and Safeway Stores, Inc. shall hereinafter be collectively

referred to as "Safeway."

5. Defendant Giant Food Stores, LLC ("Giant") is a business entity with a corporate headquarters located at 1149 Harrisburg Pike, Carlisle, PA 17013.

6. Defendants Safeway and Giant shall hereinafter be collectively referred to as the "Genuardi's defendants".

7. At all times relevant hereto, the Genuardi's defendants owned, operated, maintained and controlled a supermarket which was opened to the public known as Genuardi's Store #1007, located at 310 S. Henderson Road, King of Prussia, PA,.

8. At all times relevant hereto, the Genuardi's defendants regularly conducted business in the Commonwealth of Pennsylvania and the City and County of Philadelphia.

II. FACTS

9. On or about March 9, 2012, plaintiffs Steven and Carol Newman were business invitees at the Genuardi's Store #1007 (hereinafter the "store").

10. On the aforesaid date, plaintiffs were at the store to pick up a cake for their daughter's birthday.

11. At approximately 11:45 a.m., plaintiff Steven Newman was walking down an aisle at the store, when he slipped and fell, striking his body against the floor.

12. Following plaintiff Steven Newman's fall, he and others noticed a greasy or oily liquid substance on the floor, which had caused plaintiff to fall.

13. As a direct result of the fall, plaintiff Steven Newman suffered the injuries described herein.

III. CAUSES OF ACTION

COUNT I - STEVEN NEWMAN v. ALL DEFENDANTS - NEGLIGENCE

14. The preceding paragraphs are incorporated by reference as if the same were fully set forth at length herein.

15. At all times relevant hereto, the Genuardi's defendants had a non-delegable duty to provide safe and secure facilities for plaintiff and other patrons of the Genuardi's defendants.

16. The Genuardi's defendants knew or by using reasonable care would have discovered the condition which caused plaintiff Steven Newman to fall, and should have realized that the condition of the floor involved an unreasonable risk of harm to invitees, licensees and plaintiff in particular.

17. Plaintiffs did not know or have reason to know of the condition or the risk of the condition.

18. The Genuardi's defendants knew or should have expected that invitees, licensees and plaintiff, in particular, would not discover or realize the danger or fail to protect themselves from the danger.

19. The Genuardi's defendants, individually and through their actual and/or ostensible agents, servants, and/or employees, were negligent, careless and breached their duty of care, both generally and in the following particular respects:

- (a) creating a dangerous condition on the premises;
- (b) maintaining a dangerous condition on the premises;
- (c) failing to warn the plaintiff of a dangerous condition on the premises;
- (d) failing to use reasonable care in the maintenance and use of the premises;

- (e) failing to use reasonable care to protect plaintiff from foreseeable harm;
- (f) failing to inspect the premises and discover the dangerous condition;
- (g) failing to realize the condition involved an unreasonable risk of harm to plaintiff;
- (h) failing to properly inspect the floor;
- (i) failing to properly maintain the floor;
- (j) failing to properly supervise the inspection, maintenance and cleaning of the floor;
- (k) failing to inspect and identify liquid on the floor;
- (l) failing to prevent liquid from accumulating on the floor;
- (m) failing to clean up the liquid and/or failing to clean up the liquid in a timely manner;
- (n) failing to inspect and clean the floor;
- (o) failing to create, implement and enforce policies and procedures for the inspection, maintenance and cleaning of the floor;
- (p) failing to comply with policies and procedures for the inspection, maintenance and cleaning of the floor;
- (q) failing to comply with industry standards and practices for the inspection, maintenance and cleaning of the floor;
- (r) failing to contact the janitorial department to notify it of the liquid on the floor;
- (s) failing to close the aisle until the liquid was cleaned up;
- (t) failing to use "hazard" cones and/or other devices to warn of the dangerous condition;
- (u) failing to provide adequate and sufficient lighting in the store;
- (v) failing to select, install and maintain the proper color shade of flooring in

the store; and

- (w) failing to select, install and maintain the proper slip-resistant or less slippery flooring material

20. As a direct result of the conduct of the defendants, plaintiff Steven Newman was caused to sustain serious personal injuries, including, but not limited to, a torn right rotator cuff requiring surgical repair with grafting and other injuries, all of which have and will in the future continue to require medical care, treatment and therapy.

21. As a further direct result of the conduct of the defendants, plaintiff Steven Newman has incurred substantial expenses for medical care and treatment, and he will continue to incur such expenses for the rest of his life.

22. As a further direct result of the conduct of the defendants, plaintiff has suffered a loss of his earnings and earning capacity, and he will continue to suffer such loss for the rest of his life.

23. As a further direct result of the conduct of the defendants, plaintiff has suffered a diminution in his ability to enjoy the ordinary pleasures of life, and he will continue to suffer such loss for the rest of his life.

24. As a further direct result of the conduct of the defendants, plaintiff Steven Newman has experienced physical and emotional pain and suffering and he will continue to suffer the same for the rest of his life.

WHEREFORE, plaintiff Steven Newman demands judgment in his favor and against all defendants in an amount in excess of the jurisdictional limit for arbitration, together with interest and costs.

COUNT II - CAROL NEWMAN v. ALL DEFENDANTS - LOSS OF CONSORTIUM

25. The preceding paragraphs are incorporated by reference as if the same were fully set forth at length herein.

26. As a direct result of the conduct of the defendants, plaintiff Carol Newman has suffered a loss in the aid, assistance, society, comfort, companionship and consortium of her husband, plaintiff Steven Newman.

WHEREFORE, plaintiff Carol Newman demands judgment in her favor against all defendants for an amount in excess of the jurisdictional limit for arbitration, together with interest and costs.

FELDMAN, SHEPHERD, WOHLGELERNTER,
TANNER, WEINSTOCK & DODIG, LLP

\s\ Edward S. Goldis
ALAN M. FELDMAN
DANIEL J. MANN
EDWARD S. GOLDIS
Attorneys for Plaintiffs

VERIFICATION

I, Carol Newman, plaintiff in the foregoing pleading, state that the facts set forth are true and correct to the best of my knowledge, information and belief; and that this statement is made subject to the penalties of 18 Pa.C.S. Section 4904, which relates to unsworn falsification to authorities.

Carol Newman 1/27/13
CAROL NEWMAN

VERIFICATION

I, Steven Newman, plaintiff in the foregoing pleading, state that the facts set forth are true and correct to the best of my knowledge, information and belief; and that this statement is made subject to the penalties of 18 Pa.C.S. Section 4904, which relates to unsworn falsification to authorities.

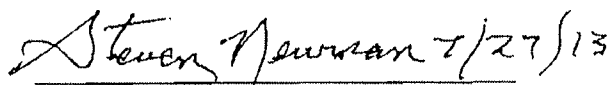
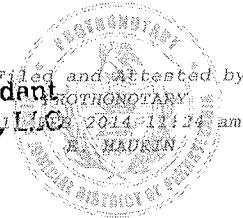

STEVEN NEWMAN

EXHIBIT B

**ZARWIN, BAUM, DeVITO, KAPLAN
SCHAER & TODDY, P.C.**
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BY: LANNI S. KLEIN, ESQUIRE
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Attorney for Defendant
Giant Food Stores, LLC



**STEVEN NEWMAN and CAROL
NEWMAN, h/w**

Plaintiffs,

vs.

**SAFEWAY, INC., SAFEWAY STORES,
INC. AND GIANT FOOD STORES, LLC**
Defendants.

**COURT OF COMMON PLEAS
PHILADELPHIA COUNTY**

AUGUST TERM, 2013

NO. 02216

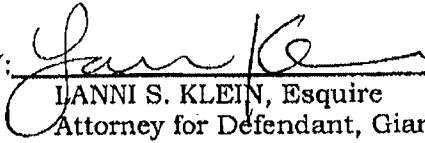
STIPULATION TO DISMISS WITHOUT PREJUDICE

TO THE PROTHONOTARY:


On this 11th day of February, 2014,

IT IS HEREBY STIPULATED AND AGREED by and between all parties that Defendant, Giant Food Stores, LLC ("Giant") shall be dismissed from the herein action without prejudice. Giant hereby expressly waives the statute of limitations as a defense and will not object to being joined to this action at a later date should there be any evidence which would warrant their inclusion in this action. This stipulation is made based on the representations of counsel for Giant and counsel for Safeway Inc. that at the time of the accident that is the subject of this action, Safeway Inc. operated and leased the store then known as Genuardi's Store #1007.

**ZARWIN, BAUM, DeVITO, KAPLAN
SCHAER & TODDY, P.C.**

BY: 
LANNI S. KLEIN, Esquire
Attorney for Defendant, Giant
Food Stores, LLC

**FELDMAN, SHEPHERD,
WOHLGELERNTER, TANNER,
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BY: 
EDWARD GOLDIS, Esquire
Attorney for Plaintiffs

REILLY, JANICZEK & McDEVITT

BY: _____
TRACEY M. McDEVITT, Esquire
Attorney for Defendants, Safeway, Inc.
And Safeway Stores, Inc.

**ZARWIN, BAUM, DeVITO, KAPLAN
SCHAER & TODDY, P.C.**

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WOHLGELERNTER, TANNER,
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Attorney for Defendant, Giant
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BY: EDWARD GOLDIS, Esquire
Attorney for Plaintiffs

REILLY, JANICZEK & McDEVITT

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